

## **OMEGA CHEMICAL SITE PRP ORGANIZED GROUP**

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1322 Scott Street  
Suite 104  
San Diego, CA 92106  
(619)-546-8377  
(619)-546-9980

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Hope Schmeltzer  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Deborah A. Gitin  
Karl J. Fingerhood  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
301 Howard St., Suite 1050  
San Francisco, CA 94105

Re: Issuing OU-2 CERCLA Notice Letters to PRPs at the Former Powerine Site

Dear Hope, Deborah and Karl:

The purpose of this letter is to follow up on our recent discussions regarding the bankruptcy of Lakeland Development Company ("Lakeland") and the insurance issues raised by David Isola on behalf of Powerine Oil Company ("Powerine"), a former owner and operator of an oil refinery in the Leading Edge of OU-2 of the Omega Chemical Superfund Site. As Mr. Isola noted, his client has taken the lead in addressing certain off-site releases from the former Powerine site under the oversight of the Los Angeles Regional Water Quality Control Board (RWQCB). Those activities, which are not yet complete, have all relied upon the availability of insurance coverage issued to Powerine. In light of recent court decisions relevant to insurance coverage and certain statements and actions of Lakeland, Mr. Isola identified various short-term actions that he requested EPA and OPOG consider to help ensure that the insurance policies would remain available to Powerine to continue remedial work. Since receiving the information from Mr. Isola, we have had the opportunity to discuss his proposed actions.

The focus of this letter is to emphasize to EPA the importance that OPOG places on ensuring that money remains available to address both source control at the former Powerine

site and participation in remediation of OU-2 Leading Edge regional groundwater by potentially responsible parties associated with that site. OPOG strongly believes that one concrete step that could aid this outcome is to clarify the significant status of the former Powerine site as a significant source of OU-2 groundwater contamination by issuing CERCLA Special Notice Letters or General Notice Letters to parties associated with the former Powerine site. It is our view that this would include Powerine, Lakeland Development, Goodman Birtcher (current owner) and perhaps the Pat Robertson Charitable Remainder Unitrust.<sup>1</sup>

In the 2007 to 2010 timeframe, EPA evaluated the former Powerine property in its OU-2 Remedial Investigation/Feasibility Study Report as a potential non-chlorinated volatile organic chemical (VOC) source. At that time, EPA concluded that free product was present in on-site and off-site groundwater and that the property was a source of hazardous substances to groundwater. EPA also acknowledged that chlorinated VOCs were also present at the site at levels exceeding MCLs but EPA stated in the RI/FS that there were no known or suspected sources of halogenated VOCs to groundwater from historical refinery operations. In fact, maximum detections in groundwater well MW-603 were identified in the RI/FS at 92 ug/l for PCE and 140 ug/l for TCE. EPA also noted the presence of other chlorinated VOCs including 1,1 DCA.

As part of its efforts to evaluate contaminants of concern (COC) contributions to OU-2 groundwater contamination, beginning in 2012 OPOG collected and reviewed the data available to EPA as well as other available historical information we were able to gather on the former Powerine site. In fact, OPOG looked at a significant number of documents that were not included in EPA's Site Summary and LARS reports. Our review found that TCE, PCE, 1,2 DCA and carbon tetrachloride were definitely used at this site. TRI data, manifest data, Hazardous Material Business Plan data, and RCRA compliance inspection data all show the presence and use of chlorinated VOCs at the site. This is not surprising since chlorinated VOCs are typically

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<sup>1</sup> The Pat Robertson Charitable Trust owned Cenco, Inc., the parent company of Cenco Refining Company. Cenco acquired the assets and liabilities of Powerine in 1998. In 2004, the Pat Robertson Charitable Trust then sold Cenco's assets to Energy Merchant Company, the company that had previously owned Powerine. At that point, Cenco changed its name to Lakeland Development Corporation. In 2012, Lakeland filed for Chapter 11 bankruptcy. In 2014, an Order was issued settling claims between the Robertson Charitable Remainder Unitrust and Lakeland. It is OPOG's understanding that considerable money was paid to the Trust prior to Lakeland converting its bankruptcy case from Chapter 11 to Chapter 7. OPOG has not fully been able to evaluate the detailed financial arrangements between the Pat Robertson Charitable Trust, Cenco Refining Company, Energy Merchant Corporation, and Lakeland Development Company. However, OPOG believes that EPA could use its statutory and regulatory information collection authorities to collect the necessary information on the responsible parties and their financial viability.

Goodman Birtcher purchased the property as part of the bankruptcy process. Goodman Birtcher has entered into various agreements with the RWQCB to address on-site contamination of non-chlorinated petroleum-related VOCs at the property. While these agreements appear to include various RWQCB limitations regarding remedial obligations both on-site and off-site, there is no question that Goodman Birtcher purchased the property knowing that it contained both on-site and off-site contamination. Had they investigated, the purchaser could also have easily determined that they were purchasing property associated with a federal Superfund site.

used for cleaning and maintenance functions. 1,2 DCA was commonly used in wax de-oiling and as a lead scavenger. In fact, an August 25, 1997 RWQCB Cleanup and Abatement Order noted that 1,2 DCA was used at the site. Chloroform formed during chlorination of water to prevent biological fouling of cooling water.

In addition to confirmed use of chlorinated VOCs, data demonstrate that PCE and TCE have been found in surface soils at the site. PCE was found at 120 ppb at 5 feet bgs and TCE was found at 45 ppb at 5 feet bgs. PCE was found in a 1985 boring at 230 ppb. High levels of chloroform, up to 1,600 ppb, were found in surface soils. More recent soil samples found TCE, 1,2 DCA, 1,1,2 DCA and chloroform in soils ranging from 60 to 90 feet bgs. In 2006, a soil gas survey also showed the presence of VOCs and chlorinated VOCs in soil gas.

Chlorinated solvents were also found in on-site groundwater wells. PCE was found in MW-603 at 150 ppb, TCE was found at 51 ppb in MW-105 and 160 ppb in MW-603, DCE was found at 320 ppb in MW-503, cis 1,2 DCE was found at 430 ppb in MW-106, vinyl chloride was found at 75 ppb in W-2, and 1,1 DCA and 1,2 DCA were also found above MCLs in W16C and MW-603. In other words, halogenated VOCs were consistently found in groundwater wells over different monitoring events.

When looked at as a whole, it is clear that the site used chlorinated solvents, chlorinated solvents were present in shallow and deeper site soils and soil gas, and on-site groundwater is contaminated with chlorinated VOCs. OPOG would further observe that the lateral and vertical extent of chlorinated VOC contamination at the site has not been characterized. However, we believe the available data leave little question that the site is contributing to regional groundwater contamination and PRPs should be the subject of an SNL or GNL. It is on this basis that OPOG filed a RCRA 7002 claim against Powerine and Lakeland Development in August 2014. We have attached a copy of that letter for your consideration.

OPOG provided EPA with technical briefings on this site in May 2013. We also provided a briefing to Steve Berninger of the Regional Counsel's Office on July 19, 2013. At that time, OPOG was told that EPA was continuing to evaluate the need to notice additional properties including the former Powerine property. OPOG remains very concerned that there should not be further delays in noticing PRPs for sites that have contributed and are still contributing to OU-2 contamination. We urge EPA to move forward to expeditiously act on issuing SNLs to the PRPs associated with the former Powerine property. We are more than willing to meet with EPA to expand on the points raised in this letter regarding this property and answer questions.

Sincerely yours,



Gene A. Lucero